

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
WESTERN WASHINGTON REGION
STATE OF WASHINGTON

WHIDBEY ENVIRONMENTAL ACTION
NETWORK,

Petitioner,

v.

ISLAND COUNTY,

Respondent.

Case No. 12-2-0016

ORDER FINDING COMPLIANCE

This matter came before the Board for a Compliance Hearing which was held telephonically on October 23, 2014. Steve Erickson represented the Petitioner. Island County appeared through its attorney, Adam Long. Board members Nina Carter and Cheryl Pflug attended and Board member William Roehl convened the hearing as the Presiding Officer.

The only issue asserted by the Petitioner was a failure of the County to act: specifically, whether Island County had failed to review and update its comprehensive plan and development regulations for fish and wildlife habitat conservation critical areas.¹ The County stipulated to the fact it was out of compliance due to that failure. Consequently, by order dated January 25, 2013, the Board found Island County had failed to review and update its comprehensive plan and development regulations for fish and wildlife habitat conservation critical areas by December 31, 2005, as required by RCW 36.70A.130(1)(a), (c) and (4)(b). The matter was remanded to the County.

On September 24, 2014, the County filed a Compliance Report stating the Island County Board of County Commissioners had adopted an updated FWHCA ordinance² so as

¹ Has Island County failed to review and update its comprehensive plan and development regulations for fish and wildlife habitat conservation critical areas by December 31, 2005 as required by RCW 36.70A.130(1)(a), (c), and (4)(b)?

² Ordinance No. C75-14.

1 to comply with the Growth Management Act review requirement set forth in RCW
2 36.70A.130.³ The Petitioner acknowledged during the Compliance Hearing the County had
3 achieved compliance.

4 When non-compliance is based on a failure to act, compliance is achieved when the
5 necessary procedural action is taken. Possible objections to the substance of the
6 compliance action require the filing of a new Petition for Review.⁴
7

8 The Board finds and concludes Island County has achieved compliance with RCW
9 36.70A.130(1)(a), (c) and (4)(b) as required by the Board's January 25, 2013 Order.

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11 **ORDER**

12 Based on the foregoing, the Petition for Review is dismissed and this case is hereby
13 CLOSED.

14
15 Dated this 24th day of October, 2014.

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18 _____
William Roehl, Presiding Officer

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20 _____
Cheryl Pflug, Board Member

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22 _____
Nina Carter, Board Member

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25 **Note: This is a final decision and order of the Growth Management Hearings Board**
26 **issued pursuant to RCW 36.70A.300.⁵**
27

28
29 _____
30 ³ Island County's Compliance Report-Statement of Actions Taken.

31 ⁴ *Petree v. Whatcom County*, Case No. 08-2-0017, Order on Motion, February 1, 2010.

32 ⁵ Should you choose to do so, a motion for reconsideration must be filed with the Board and served on all parties within ten days of mailing of the final order. WAC 242-03-830(1), WAC 242-03-840.

A party aggrieved by a final decision of the Board may appeal the decision to Superior Court within thirty days as provided in RCW 34.05.514 or 36.01.050. See RCW 36.70A.300(5) and WAC 242-03-970.

It is incumbent upon the parties to review all applicable statutes and rules. The staff of the Growth Management Hearings Board is not authorized to provide legal advice.